Master Advocate Institute Series:
The Art of Winning before Trial

October 25, 2002

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Faculty Information

David M. Malone, JD, is currently the **President of Trial Run Inc.**, a litigation consulting and trial training and coaching firm located just outside Washington, D.C. Malone has been a partner with the **Venable Law Firm** in Washington, and with **Bayh, Connaughton & Malone**, also in Washington, where he headed the litigation department. In private practice, he handled both plaintiff and defense side of antitrust matters, product liability suits, RICO claims, professional and corporate officer malpractice claims, and suits for corporate control. For the first 15 years of his 31 years in practice, Mr. Malone was a federal prosecutor in antitrust and consumer fraud. He has tried cases lasting as long as 440 courtroom days, with 150 witnesses and 44,000 pages of transcript, and others that he has lost in as little as one-half day. Every trial in his career has involved expert witnesses, with the longest involving the examination and cross-examination of 52 expert witnesses. Malone has taught hundreds of advanced and basic trial advocacy, expert witness, deposition and other trial-related programs, across the United States, with barristers and solicitors in England, and for Russian criminal defense attorneys in Moscow; for the National Institute for Trial Advocacy, the American Bar Association, the State Department, and private corporations and law firms; and for federal and state agencies, including the Justice Department, the Labor Department, the EPA, the FDIC, and the FTC. Malone has been a Professorial Lecturer in the Law at **George Washington University School of Law**, and he is currently an Adjunct Professor of Trial Advocacy at the **University of Virginia School of Law.** Dave Malone is the author or co-author of *The Effective Deposition*, one of the most widely used texts on deposition practice and procedure; handbooks for practitioners entitled, *Expert Rules* and *Deposition Rules*; and a new book entitled, *Effective Expert Testimony*; of workbooks for various courses, including **Winning Depositions** and **Winning With Experts**; and of numerous articles on trial practice topics, including, "The Zodiac Expert: Reliability After *Kumho Tire*," "Why Most Deposition Preparation Fails," and "Persuasive Expert Testimony." An article published in the fall of 2000, entitled, "The Daubert Deposition Dance," examines changes in deposition practice necessitated by *Daubert* reliability inquiries, and an upcoming law review article analyzes whether accounting and economic experts on damages can survive *Daubert* reliability challenges. He has just completed and published, through Trial Run Inc. two additional handbooks, one on handling exhibits at pre-trial and trial, and the other on all aspects of creating, presenting and defending challenges to expert testimony under the *Daubert-Joiner-Kumho Tire* trilogy of Supreme Court cases. Mr. Malone is a graduate of

the University of Notre Dame and earned his J.D. from the University of Virginia. He is a member of the Virginia, D.C. and Maryland federal and state bars; of the Bar of the Supreme Court of the United States; and of various federal district and circuit bars across the country.

Barbara A. Caulfield, JD, is Executive Vice-President and General Counsel of Affymetrix, Inc., in Sunnyvale, California. Ms. Caulfield served as a United States District Judge for the Northern District of California from 1991 until 1994. While in private practice Ms. Caulfield represented such companies as Microsoft, Hoofman-La Roche, Apple Computer and Affymetrix. Prior to her tenure on the United States District Court, Ms. Caulfield was a trial lawyer in California and a Professor of Law at the University of California, Hastings Law School. She is a gifted trial advocacy CLE instructor. Ms. Caulfield earned her BS and JD from Northwestern University, in Chicago, and is a member of the National Patent Board. Ms. Caulfield has tried cases since 1972.

Charles W. Blau, JD, is a partner in the law firm of Meadows, Owens, Collier, Reed, Cousins & Blau, L.L.P., in Dallas, Texas. He focuses his practice on the representation of individuals and entities that are accused of white collar crimes. Mr. Blau assists companies in discrete internal investigations both before and during governmental inquiries. He also aids corporations in fashioning, enacting and administering compliance and ethics programs. He regularly advises clients how to prevent and detect criminal, civil and administrative problems, often in conjunction with independent accountants and investigators. His practice concentration and experience includes criminal law and litigation: Tax Fraud, Criminal Anti-Trust and Securities Fraud, Defense Procurement Fraud, Environmental Crimes, Health Care Fraud, Bank Fraud and Money Laundering Crimes. Mr. Blau was an Assistant United States Attorney for the Southern District of Indiana in 1976 and held various federal prosecutorial positions through 1987, including Associate Deputy Attorney General of the United States. He is a prolific author and speaker. He is an active member of the ABA White Collar Crime Subcommittee and served as a co-chair of the Southwest Regional Committee of the organization. He is member of the Florida, Indiana and Texas bar associations as well as many other professional organizations. He received his undergraduate degree from Indiana University, his law degree from the University of Louisville and his L.L.M. in taxation from Georgetown University.

Warren S. Radler, JD is the Chairman of Trial Run Inc. a firm of trial advocacy teachers and litigation consultants who help train trial lawyers and consult with businesses, government and law firms on trial technique and strategy. Radler is the former chairman and senior trial partner of a large national law firm and has tried many complex case to jury verdict throughout the country. His litigated cases include among others anti trust, construction defects, products liability. personal injury, environmental and corporate fraud. Mr. Radler has also taught extensively for the National Institute of Trial Advocacy's advanced programs and has taught programs at Oxford, England and at several law Schools. He is a

Fellow of the American College of Trial lawyers and a graduate of Cornell University and the Cornell Law School.

Dr. Arthur H. Patterson is a Senior Vice President of DecisionQuest, the country's leading litigation support firm. DecisionQuest has consulted on thousands of civil and criminal cases in over 100 federal and state jurisdictions throughout the country. Dr. Patterson obtained his Ph.D. degree in social psychology from Northwestern University, and was previously a tenured associate professor of Administration of Justice at the Pennsylvania State University. He has received peer review research grants from federal, state, and private agencies to conduct a variety of social science research projects. Dr. Patterson has published numerous articles in both legal and psychological journals. Among his recent publications is "Removing Juror Bias by Applying Psychology to Challenges for Cause," which appeared in the *Cornell Journal of Law and Public Policy*. He has lectured frequently to organizations such as the American Bar Association, the Pennsylvania Bar Association, the Philadelphia Bar Association, the National Institute for Trial Advocacy (NITA), ALI-ABA, and the American Psychological Association.

Thomas J Kapurch is a former Intelligence Officer, US Navy and Defense Intelligence Agency, with more than 15 years experience in information systems, intelligence collections, analysis, technical information systems, geo-political intelligence and military investigations. His industry experience includes over ten years in business and information systems management for GTE, Nextel, NEC America, TXU, Informatica Software Company with eleven years experience developing business and operations plans, as internal and external information systems consultant to telecommunications, utilities and financial companies. Mr. Kapurch also worked as an engineer with Texas Instruments on computer based aerospace products with OEMs and major subcontractors Bell Textron, McDonnell-Douglas, Boeing and Lockheed. While at TI Kapurch also managed all phases of electronics systems and components manufacture and enterprise wide information systems for manufacturing and shipping. He is currently Vice-President of Data Recovery Services Inc. in Dallas, Texas, responsible for designing and presenting technology seminars for litigation support and government services.

Frederick C. Moss is an Associate Professor of Law at the Southern Methodist University Dedman School of Law in Dallas, Texas, where he has taught Trial Advocacy, Evidence, Criminal Law and Professional Responsibility since 1978. Born in Washington, D.C., Professor Moss received his J.D. from Villanova University in 1968. After serving as an officer in the U.S. Army from 1969-71, and as a federal prosecutor in the District of Columbia from 1971 to 1975, he attended Harvard Law School as a graduate teaching fellow, receiving his LL.M. in 1977. The following year, he taught at Harvard as a Lecturer in Law, creating and teaching Harvard's first prosecution clinical course. He was the 1999 chair of the Dallas Bar Association's Ethics Committee, and continues to serve on that committee. He lectures and writes in the fields of legal ethics and evidence.